IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

TUESDAY, THE 9TH OCTOBER 2007 / 17TH ASWINA 1929

WP(C).No. 25154 of 2007(T)

PETITIONER:

LOVELY S.LIVINGSTON, AGED 17(MINOR),
REPRESENTED BY HER FATHER W. SELVA LIVINGSTON,
S/O A.WILSON, AGED 45 YEARS, GLADSY VILLA,
CHITTAZHA, VATTAPPARA, TRIVANDRUM-695028,

BY ADV. SRI.V.A.MUHAMMED
SRI.K.E.HAMZA
SRI.T.V.VIJAYARAJAN
SRI.M.SAJJAD

RESPONDENTS:

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1. THE STATE OF KERALA, REPRESENTED BY
THE SECRETARY TO GOVERNMENT,
HIGHER EDUCATION DEPARTMENT,
SECRETARIAT, TRIVANDRUM.

2. THE COMMISSIONER FOR ENTRANCE
EXAMINATION, TRIVANDRUM.

3. THE KERALA UNIVERSITY, REPRESENTED BY
ITS REGISTRAR, TRIVANDRUM.

4. THE DIRECTOR,
DR.SOMERVELL MEMORIAL C.S.I. MEDICAL COLLEGE,
KARAKONAM, TRIVANDRUM-695504.

5. THE PRINCIPAL,
DR. SOMERVELL MEMORIAL C.S.I.MEDICAL COLLEGE,
KARAKONAM, TRIVANDRUM-695504.

6. SRI. NISANTH BABU,
1ST YEAR M.B.B.S.STUDENT,
DR.SOMERVELL MEMORIAL C.S.I. MEDICAL COLLEGE,
KAROKONAM, TRIVANDRUM-695504.

BY ADV. SRI.M.RAJAGOPALAN NAIR, SC, KERALA UTY.
SRI.P.C.SASIDHARAN
GOVT. PLEADER MR. I.V. PRAMOD.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 13/09/2007, THE COURT ON 9/10/2007 DELIVERED THE FOLLOWING:

ANTONY DOMINIC, J.

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W.P.(C) No. 25154 OF 2007 T
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Dated this the 9th October, 2007

J U D G M E N T

This writ petition was filed praying for quashing the list prepared by the 4th respondent for admission to M.B.B.S. course and to direct them to prepare a merit list according to the merit of the candidates in the entrance test and further to direct the 4th respondent to grant admission to the petitioner for M.B.B.S. course.

2. It was alleged by the petitioner that the Management of the 4th respondent College had pressurised her to pay an amount of Rs.5 lakhs towards the fee for the first year and that they made a further demand for an amount of Rs.10 lakhs to treat her as eligible for a seat. According to the petitioner it was due to non-payment of the additional amount of Rs.10 lakhs that the management did not consider her for admission.

3. Taking note of the grave allegations made by the petitioner, this Court issued order dated 18-8-2007 directing the Director General of Police to have an

enquiry conducted through a senior police officer into the allegations of the petitioner and make a report to this Court. In pursuance to the said direction, a detailed enquiry has been conducted in the course of which, 19 persons including the petitioner were questioned by the investigating officer. After perusing about 32 records including the depositions and the statements recorded by the investigating officer, the report has been submitted which concludes in the following terms:

> "To sum up, there is no evidence to show that any amount as alleged was collected from the petitioner or her father by the management of Dr. S.M. CSI Medical College in connection with admission to MBBS Course.
>
> There is no evidence regarding the alleged demand of additional amount for providing admission.
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> There is no evidence to prove that the petitioner has filed application for admission to MBBS in the Management Community Quota seat.
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> The submission of Ext. P5 in the writ petition with forged signature of the applicant and the false submission in the writ petition regarding filing of Ext. P6 and Ext. P7 indicate the questionable integrity of W2."

4. The 4th respondent College also filed its

counter affidavit refuting the allegations and contending that the allegations raised in the writ petition have affected their reputation. They conclude their counter affidavit by praying for the dismissal of the writ petition and awarding compensatory cost to them.

5. After the report and the counter affidavit mentioned above were filed, the petitioner filed a reply affidavit reiterating the contentions in the writ petition and seeking leave to withdraw the writ petition with liberty to approach the competent civil court for a proper enquiry and investigation.

6. The allegations in the writ petition were too grave and therefore this Court thought it necessary for an investigation to be conducted by the Director General of Police and the said report reveals that the petitioner was making a totally unfounded claim before this Court. Even the application said to have made to the College is found to be forged. The reply affidavit filed, has not in any manner improved the contentions in the writ petition and has not discredited the findings in the enquiry report. The prayer of the

petitioner for leave to approach the civil court is only to wriggle out of the situation and consequences that are to follow.

7. Initially I was inclined to dismiss this writ petition imposing heavy cost on account of the misuse of judicial process that has been resorted to in this writ petition. However, on second thoughts, I feel that it will be unjust to the petitioner, a minor student. The writ petition has been filed by her father as her guardian and I am sure that it is his over enthusiasm that led to this situation. Since any observation made against the student can affect her future, I refrain from making any further observations in this matter. Taking a lenient view, I also refrain from imposing any cost on the petitioner although this is a most deserving case.

8. However, I am not inclined to grant leave to the petitioner to withdraw this writ petition and cause yet another round of harassment to the 4th respondent to which enough damage is already caused. If the petitioner had, at least in the reply affidavit succeeded in creating a shadow of doubt about the

findings of the investigating officer, my approach would have been different. On the other hand, the attempt was to persist in the allegations, without an iota of evidence. Therefore, there is no justification to grant the leave sought for.

The writ petition will stand dismissed, but however, without any order as to costs.

ANTONY DOMINIC
JUDGE

jan/-